

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Avian Sheppard,)
Plaintiff,) Civil Action No.: 4:17-cv-01800-JMC
v.)
Officer Robbie Williamson,)
Officer Frank Smith,)
Lt. Luke Lark,)
Sgt. Sidney Montgomery,)
Defendants.)

)

ORDER

Plaintiff Avian Sheppard, proceeding *pro se*, filed this action under 42 U.S.C. § 1983 on July 7, 2017. (ECF No. 1.) The matter is before the court on Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction filed on July 17, 2017. (ECF No. 9.) In the Motion, Plaintiff seeks a temporary restraining order requiring the above-captioned Defendants to "arrange for an examination and a plan of treatment by a qualified back specialist and to a preliminary injunction requiring Defendants to carry out that plan of treatment." (*Id.*) The Magistrate Judge's Report and Recommendation recommends that Plaintiff's Motion be denied as moot. (ECF No. 36.) The Report and Recommendation, filed on October 6, 2017, sets forth the relevant facts, which this court incorporates herein without a recitation. (*Id.*)

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The parties were advised of their right to file objections to the Report and Recommendation. (ECF No. 36-1.) However, neither party filed an objection to the Report and Recommendation within the prescribed time limits.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 36) and incorporates it herein. Therefore, Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction (ECF No. 9) is **DENIED** as moot.

IT IS SO ORDERED.



United States District Judge

December 19, 2017
Columbia, South Carolina